IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

Bail Appl..No. 4623 of 2007()

CRIME NO.366 OF 2007 IN VALAPATTANAM POLICE STATION

.....

PETITIONERS : ACCUSED

---

1. K.O.PAVITHRAN,S/O.GOPALAN,AGED 58 YEARS,
   BRANCH MANAGER,SRI.PRARTHANA CHIT FUNDS PVT.LTD,
   KANNUR BRANCH,RESIDING AT 'RATHI QUARTERS',
   CHALAD,KANNUR.

2. V.T.PREMAN,S/O.ANDI,AGED 38 YEARS,
   BRANCH MANAGER,SRI.PRARTHANA CHIT FUNDS PVT.
   LTD,THALASSERY BRANCH,RESIDING AT
   'VADAKKETHAILVALAPPIL HOUSE,KOTTACKAL P.O,
   VADAKARA,KOZHIKODE.

BY ADV. SMT.K.K.CHANDRALEKHA

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4623 of 2007

Dated this the 31st day of July, 2007

ORDER

Application for anticipatory bail. The petitioners allegedly are persons running a chitty company. The defacto complainant owed amounts to the chitty company. He had complained to the police about the high handed acts of those responsible for running the chitty company. In respect of such complaint, the defacto complainant was threatened and intimidated by the accused persons. Altogether there are 6 accused persons. The petitioners are accused 1 and 2. They are named in the F.I.R. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They are managers of the chitty company and they had not gone anywhere near the alleged scene of the crime. Vexatious allegations are being raised against the petitioners, submits the learned counsel for the petitioners. The learned Public Prosecutor opposes the application. The prosecution has no case that any injury has been caused to the defacto complainant. A truthful allegation of what really happened - trespass into the house of defacto complainant and intimidation for the purpose

of extracting the payment of the alleged amount due is the only specific allegation. There are no circumstances justifying the invocation of the jurisdiction under Section 438 Cr.P.C. Money lenders cannot be permitted to take law into their hands and enforce their own justice, submits the learned Public Prosecutor.

3. I find merit in the opposition by the learned Public Prosecutor. I do not in this case find any features which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

4. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioners surrender before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-